

AMENDED IN ASSEMBLY APRIL 15, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2918

Introduced by Assembly Member Laird

February 20, 2004

An act to add Section ~~366.3~~ 747 to the Public Utilities Code, ~~and to amend Section 12948.1 of the Water Code,~~ relating to desalination facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2918, as amended, Laird. Desalination facilities: ~~direct transactions~~ *electricity rates*.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and authorizes the commission to ~~establish rules~~ *fix just and reasonable rates and charges* for all public utilities, ~~subject to control by the Legislature. The existing Public Utilities Act requires the commission, pursuant to electrical restructuring, to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers. However, other existing law suspends the right of retail end-use customers other than community aggregators, as defined, to acquire service from certain electricity suppliers after a period of time to be determined by the commission, until the Department of Water Resources no longer supplies electricity under that law. Under existing law, the commission has imposed a cost responsibility surcharge on~~

~~retail end-use customers that continue to receive electric service through a direct transaction.~~

~~This bill would, notwithstanding any other law, require the commission to authorize a desalination facility that commences operation after January 1, 2005, to acquire electricity through a direct transaction. The bill would provide that no desalination facility that commences operation after January 1, 2005, and is operated by a water agency or water corporation to supply water to its customers, may be assessed a cost responsibility surcharge, unless the commission finds that the Department of Water Resources specifically purchased electricity to service the electricity demands of the facility for any electrical corporation serving more than 1,000,000 customers, require that by July 1, 2005, the commission initiate either a quasi-legislative or ratesetting proceeding to determine the feasibility of establishing a separate rate class for desalination plants operated by public agencies or by regulated utilities, which are placed in service after January 1, 2006.~~

~~The existing Cobey-Porter Saline Water Conversion Law authorizes the Department of Water Resources, either independently or in cooperation with public or private entities, to conduct a program of investigation, study, and evaluation in the field of saline water conversion, to provide assistance to persons or entities seeking to construct desalination facilities, and after submission of a written report and upon appropriation from the Legislature, to finance, construct, and operate saline water conversion facilities.~~

~~This bill would authorize the department to cooperate, to the extent existing resources allow, with the commission in determining whether to authorize a desalination facility to enter into direct transactions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The state has serious water supply problems which will be
- 4 difficult to solve without additional supplies of clean fresh water.
- 5 (b) Some methods for addressing fresh water shortages raise
- 6 very controversial issues, including the environmental effects of
- 7 new dams used to store additional supplies, purchasing water from

1 agricultural interests, and shipping water from one part of the state
2 to another.

3 (c) Desalination has recently become more cost effective as a
4 result of recent technological improvements, although
5 desalination is not free of difficult policy and environmental
6 issues.

7 (d) Fresh water provided by desalination will remain costly,
8 partly because of the cost of electricity used in the desalination
9 process.

10 (e) As a result of the energy crisis of 2000–01, the Department
11 of Water Resources began to purchase electricity for the customers
12 of the investor-owned utilities in January 2001 to avoid electricity
13 service disruptions and to minimize the adverse effect on
14 California's economy.

15 (f) California issued revenue bonds to finance the Department
16 of Water Resources electricity purchases and to repay funds
17 borrowed from the state's General Fund.

18 (g) Electricity rates approved by the Public Utilities
19 Commission for the customers of the state's largest electrical
20 corporations will, for 20 years, include charges to repay the bonds
21 issued to finance the Department of Water Resources electricity
22 purchases.

23 ~~(h) The Public Utilities Commission, pursuant to legislative~~
24 ~~mandate, has suspended certain direct transactions and has~~
25 ~~imposed cost responsibility surcharges on certain customers that~~
26 ~~purchase electricity through direct transactions, in part, to repay~~
27 ~~the bonds issued to finance the Department of Water Resources~~
28 ~~electricity purchases.~~

29 ~~(i) Because there were no major desalination plants in existence~~
30 ~~during the electricity crisis and because desalination was not~~
31 ~~expected to be a significant consumer of electricity at the time the~~
32 ~~Department of Water Resources entered into the electricity~~
33 ~~purchase agreements, it is questionable whether desalination~~
34 ~~plants should be charged in their electricity rates for the costs for~~
35 ~~electricity procured during the electricity crisis.~~

36 ~~(j)–~~

37 (i) Predictable long-term negotiated electricity costs for
38 desalination facilities will aid local water agencies and regulated
39 water corporations in addressing critical water problems.

SEC. 2. Section ~~366.3~~ 747 is added to the Public Utilities Code, to read:

~~366.3. (a) Notwithstanding any other provision of law, the~~
747. *The commission shall, by July 1, 2005, for any electrical corporation serving more than 1,000,000 customers, initiate either a quasi-legislative or ratesetting proceeding to determine the feasibility of establishing a separate rate class for desalination plants operated by public agencies or by regulated utilities, which are placed in service after January 1, 2006. The commission may make the determination in the utility's next general rate case. In the proceeding, the commission shall determine the costs and benefits associated with exempting public agencies or regulated utilities operating a desalination facility from costs of electricity procured through the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code, or through any historical procurement costs associated with restructuring of the electrical industry, including any utility undercollections or insolvency or bankruptcy related charges, both during and after the energy crises of 2000–01. In the proceeding, the commission shall additionally consider whether a desalination facility employs programs to shift electricity consumption to offpeak electricity demand periods, including interruptible or curtailable service programs, and use of real time metering.*

~~commission shall authorize a desalination facility that commences operation after January 1, 2005, to acquire electricity through direct transactions.~~

~~(b) No desalination facility that commences operation after January 1, 2005, and is operated by a water agency or water corporation to supply water to its customers, shall be assessed a cost responsibility surcharge, unless the commission finds that the Department of Water Resources specifically purchased electricity to service the electricity demands of the facility.~~

SEC. 3. ~~Section 12948.1 of the Water Code is amended to read:~~

~~12948.1. The department shall provide assistance to persons or entities with state and local desalination facility permit applications seeking to construct desalination facilities for reducing the concentration of dissolved solids in brackish groundwater or seawater in the state and shall cooperate, to the~~

1 ~~extent existing resources allow, with the Public Utilities~~
2 ~~Commission in determining whether to authorize a desalination~~
3 ~~facility to enter into direct transactions.~~

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